

## **Assembly Bill No. 1809**

### **CHAPTER 49**

An act to amend, add, and repeal Section 13305 of the Government Code, to amend Section 12975.9 of the Insurance Code, and to amend Sections 6248, 7204.3, 7273, and 17052.2 of the Revenue and Taxation Code, relating to taxation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor June 30, 2006. Filed with  
Secretary of State June 30, 2006.]

#### **LEGISLATIVE COUNSEL'S DIGEST**

AB 1809, Committee on Budget. Budget Act of 2006: implementation: taxes.

(1) Existing law requires the Department of Finance to provide an annual report to the Legislature on tax expenditures, containing specified information.

This bill would, commencing January 1, 2007, require the department to provide the report to the Legislature by no later than September 15 of each year and would specify the additional information that the report must contain, including, but not limited to, the statutory authority for each credit, deduction, exclusion, exemption, or any other tax benefit as provided for by state law and specific information on tax expenditures regarding sales and use tax, personal income tax, and corporation tax.

(2) Existing law creates a Seismic Safety Account within the Insurance Fund, which may be appropriated by the Legislature to fund the Department of Insurance and the Seismic Safety Commission, as specified. Existing law imposes an assessment upon certain insurers to fund the account. This provision will remain in effect until July 1, 2007.

This bill would extend the operation of the Seismic Safety Account until July 1, 2009.

(3) The Sales and Use Tax Law imposes a tax on the gross receipts from the storage, use, or other consumption in this state of tangible personal property. Under existing law, there is a presumption that a vehicle, vessel, or aircraft shipped or brought into this state within 12 months from the date of its purchase was purchased from a retailer for storage, use, or other consumption in this state, under specified circumstances, until July 1, 2006. On and after July 1, 2006, the rebuttable presumption applies within 90 days from the date of the vehicle, vessel, or aircraft purchase, under specified circumstances.

This bill would continue, through June 30, 2007, the 12-month presumption and would make the 90-day presumption provisions operative on and after July 1, 2007.

(4) The Bradley-Burns Uniform Local Sales and Use Tax Law and the Transactions and Use Tax Law require the State Board of Equalization to impose a charge, determined in a specified manner, for administering a local special taxing jurisdiction's sales and use taxes and transactions and use taxes.

This bill would, for the 2006–07 fiscal year and each fiscal year thereafter, require the charge to be based on the methodology described in a specified report by the board, as provided.

(5) The Personal Income Tax Law authorizes various credits against the taxes imposed by that law, including a credit for taxable years beginning on or after January 1, 2006, to credentialed teachers in an amount equal to specified amounts, depending upon years of service as a teacher.

This bill would, instead, authorize that credit for taxable years beginning on or after January 1, 2007.

(6) This bill would declare that it is to take effect immediately as an urgency statute.

*The people of the State of California do enact as follows:*

SECTION 1. Section 13305 of the Government Code is amended to read:

13305. The department shall provide an annual report to the Legislature on tax expenditures. The report shall include each of the following:

- (a) A comprehensive list of tax expenditures.
- (b) Additional detail on individual categories of tax expenditures.
- (c) Historical information on the enactment and repeal of tax expenditures.
- (d) This section shall remain in effect only until January 1, 2007, and as of that date, is repealed.

SEC. 2. Section 13305 is added to the Government Code, to read:

13305. (a) The department shall provide an annual report to the Legislature on tax expenditures by no later than September 15 of each year. The report shall include each of the following:

- (1) A comprehensive list of tax expenditures exceeding five million dollars (\$5,000,000) in annual cost.
- (2) The statutory authority for each credit, deduction, exclusion, exemption, or any other tax benefit as provided by state law.
- (3) A description of the legislative intent for each tax expenditure, if the act adding or amending the expenditure contains legislative findings and declarations of that intent, or that legislative intent is otherwise expressed or specified by that act.
- (4) The sunset date of each credit, deduction, exclusion, exemption, or any other tax benefit as provided by state law, if applicable.
- (5) A brief description of the beneficiaries of the credit, deduction, exclusion, exemption, or other tax benefit as provided by state law.

(6) An estimate or range of estimates for the state and local revenue loss for the current fiscal year and the two subsequent fiscal years. For sales and use tax expenditures, this would include partial year exemptions and all other tax expenditures when the State Board of Equalization has obtained that information.

(7) For personal income tax expenditures, the number of taxpayers affected and returns filed, as applicable, for the most recent tax year for which full year data is available.

(8) For corporation tax and sales and use tax expenditures, the number of returns filed or business entities affected, as applicable, for the most recent tax year for which full year data is available.

(9) A listing of any comparable federal tax benefit, if any.

(10) A description of any tax expenditure evaluation or compilation of information completed by any state agency since the last report made under this section.

(b) For purposes of this section, “tax expenditure” means a credit, deduction, exclusion, exemption, or any other tax benefit as provided for by the state.

(c) This section shall become operative on January 1, 2007.

SEC. 3. Section 12975.9 of the Insurance Code is amended to read:

12975.9. (a) The Seismic Safety Account is hereby created as a special account within the Insurance Fund. Money in the account may be appropriated by the Legislature for the purposes of this section to fund the department and the Seismic Safety Commission. Assessments imposed on insurers as a prorated percentage of premiums earned on property exposures for both commercial and residential insurance policies relative to the aggregate premiums earned on those exposures by all insurers shall be deposited in the account. The premiums earned for property exposures shall be as stated on lines 4 and 5.1 of the annual statement filed by each insurer pursuant to Section 900. The assessments shall be set annually based on earned premiums reported for the next preceding year by the department and calculated so that the funds in the account shall be sufficient to fund appropriations for support of the Seismic Safety Commission, for the actual collection and administrative costs of the department, and for the maintenance of an adequate reserve. The department shall submit the proposed assessments to the Seismic Safety Commission for its review at a regularly scheduled meeting of the commission.

(b) No assessment shall be levied on insurers with less than one hundred thousand dollars (\$100,000) of annual direct premiums earned on property exposures for both commercial and residential insurance policies. The department may adjust this amount as necessary to minimize costs by excluding assessment amounts that are too small to justify the cost of assessment and collection or if assessment or collection is impractical.

(c) An insurer, in its discretion, may recover this assessment in an equitable fashion from the insured. The insurer, upon receipt of an invoice, shall transmit payment to the department for deposit in the Seismic Safety

Account. Any deficiency or excess in the amount collected in relation to the appropriation authority for the commission and the department shall be accounted for in the subsequent annual fee calculation. Any balance remaining in the Seismic Safety Account at the end of the fiscal year shall be retained in the account and carried forward to the next fiscal year.

(d) Funds in the Seismic Safety Account shall be distributed, upon appropriation, to the Seismic Safety Commission for the support of the commission and to the department for the actual administrative costs incurred in collecting the assessments.

(e) The department shall report annually to the Legislature, the Seismic Safety Commission, and the Department of Finance on the assessment calculation methodology employed.

(f) This section shall remain in effect until July 1, 2009, and as of that date is repealed, unless a later enacted statute, that is enacted before July 1, 2009, deletes or extends that date.

SEC. 4. Section 6248 of the Revenue and Taxation Code, as amended by Section 2 of Chapter 226 of the Statutes of 2004, is amended to read:

6248. (a) On and after the effective date of this section there shall be a rebuttable presumption that any vehicle, vessel, or aircraft bought outside of this state, and which is brought into California within 12 months from the date of its purchase, was acquired for storage, use, or other consumption in this state and is subject to use tax if any of the following occur:

(1) The vehicle, vessel, or aircraft was purchased by a California resident as defined in Section 516 of the Vehicle Code.

(2) In the case of a vehicle, the vehicle was subject to registration under Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code during the first 12 months of ownership.

(3) In the case of a vessel or aircraft, that vessel or aircraft was subject to property tax in this state during the first 12 months of ownership.

(4) The vehicle, vessel, or aircraft is used or stored in this state more than one-half of the time during the first 12 months of ownership.

(b) This presumption may be controverted by documentary evidence that the vehicle, vessel, or aircraft was purchased for use outside of this state during the first 12 months of ownership. This evidence may include, but is not limited to, evidence of registration of that vehicle, vessel, or aircraft, with the proper authority, outside of this state.

(c) This section does not apply to any vehicle, vessel, or aircraft used in interstate or foreign commerce pursuant to regulations prescribed by the board.

(d) The amendments made to this section by the act adding this subdivision do not apply to any vehicle, vessel, or aircraft that is either purchased, or is the subject of a binding purchase contract that is entered into, on or before the operative date of this subdivision.

(e) (1) Notwithstanding subdivision (a), aircraft or vessels brought into this state for the purpose of repair, retrofit, or modification shall not be deemed to be acquired for storage, use, or other consumption in this state.

(2) This subdivision does not apply if, during the period following the time the aircraft or vessel is brought into this state and ending when the repair, retrofit, or modification of the aircraft or vessel is complete, more than 25 hours of airtime in the case of an airplane or 25 hours of sailing time in the case of a vessel are logged on the aircraft or vessel by the registered owner of that aircraft or vessel or by an authorized agent operating the aircraft or vessel on behalf of the registered owner of the aircraft or vessel. The calculation of airtime or sailing time logged on the aircraft or vessel does not include airtime or sailing time following the completion of the repair, retrofit, or modification of the aircraft or vessel that is logged for the sole purpose of returning or delivering the aircraft or vessel to a point outside of this state.

(3) This subdivision applies to aircraft or vessels brought into this state for the purpose of repair, retrofit, or modification on or after the operative date of this subdivision.

(f) The amendments made by Section 2 of Chapter 226 of the Statutes of 2004 adding this subdivision shall become operative on October 1, 2004.

(g) The Legislative Analyst's Office shall conduct a study of the economic impacts of the amendments made to this section by the act adding this subdivision, and shall report its findings to the Legislature on or before June 30, 2006.

(h) This section shall remain in effect only until and including June 30, 2007, and as of July 1, 2007, is repealed.

SEC. 5. Section 6248 of the Revenue and Taxation Code, as added by Section 3 of Chapter 226 of the Statutes of 2004, is amended to read:

6248. (a) On and after July 1, 2007, there shall be a rebuttable presumption that any vehicle bought outside of this state which is brought into California within 90 days from the date of its purchase, and which is subject to registration under Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, was acquired for storage, use, or other consumption in this state.

(b) This section shall become operative on July 1, 2007.

SEC. 6. Section 7204.3 of the Revenue and Taxation Code is amended to read:

7204.3. The board shall charge a city, city and county, redevelopment agency, or county an amount for the board's services in administering the sales and use tax ordinance of the local entity, as determined by the board with the concurrence of the Department of Finance, as follows:

(a) Beginning with the 2006–07 fiscal year, the amount charged each local entity shall be based on the methodology described in Alternative 4C of the November 2004 report by the State Board of Equalization entitled "Response to the Supplemental Report of the 2004 Budget Act."

(1) The amount charged may be adjusted in the current fiscal year to reflect the difference between the board's budgeted costs and any significant revised estimate of costs. Any adjustment shall be subject to budgetary controls included in the Budget Act. Prior to any adjustment, the Department of Finance shall notify the Chairperson of the Joint Legislative

Budget Committee not later than 30 days prior to the effective date of the adjustment.

(2) The amount charged each district shall be adjusted to reflect the difference between the board's recovered costs and the actual costs incurred by the board during the fiscal year two years prior.

(b) The amounts determined by subdivision (a) shall be deducted in equal amounts from the quarterly allocation of taxes collected by the board for the city, city and county, redevelopment agency, or county.

SEC. 7. Section 7273 of the Revenue and Taxation Code is amended to read:

7273. In addition to the amounts otherwise provided for preparatory costs, the board shall charge each district an amount for the board's services in administering the transactions and use tax determined by the board, with the concurrence of the Department of Finance, as follows:

(a) Beginning with the 2006–07 fiscal year, the amount charged all districts shall be based on the methodology described in Alternative 4C of the November 2004 report by the State Board of Equalization entitled "Response to the Supplemental Report of the 2004 Budget Act." The amount charged each district shall be based upon the district's proportional share of the revenue after weighting the revenue to equalize the differences in district tax rates.

(1) The amount charged each district may be adjusted in the current fiscal year to reflect the difference between the board's budgeted costs and any significant revised estimate of costs. Any adjustment shall be subject to budgetary controls included in the Budget Act. Prior to any adjustment, the Department of Finance shall notify the Chairperson of the Joint Legislative Budget Committee not later than 30 days prior to the effective date of the adjustment.

(2) The amount charged shall be adjusted to reflect the difference between the board's recovered costs and the actual costs incurred by the board during the fiscal year two years prior.

(b) The board shall, by June 1 of each year, notify districts of the amount that it anticipates will be assessed for the next fiscal year. The districts shall be notified of the actual amounts that will be assessed within 30 days after enactment of the Budget Act for that fiscal year.

(c) The amount charged a district that becomes operative during the fiscal year shall be estimated for that fiscal year based on weighted revenue.

(d) The amounts determined by subdivision (a) shall be deducted in equal amounts from the quarterly allocation of taxes collected by the board for a given district.

SEC. 8. Section 17052.2 of the Revenue and Taxation Code is amended to read:

17052.2. (a) For each taxable year beginning on or after January 1, 2000, and before January 1, 2002, for each taxable year beginning on or after January 1, 2003, and before January 1, 2004, and for each taxable year beginning on and after January 1, 2007, there shall be allowed as a

credit against the “net tax” (as defined by Section 17039) to a credentialed teacher an amount equal to the amount determined in subdivision (b).

(b) The amount of the credit shall be the lesser of the amounts computed under paragraph (1) or (2):

(1) In the case of any credentialed teacher who has, as of the last day of the taxable year:

(A) Completed at least four but less than six years of service as a credentialed teacher, the credit shall be two hundred fifty dollars (\$250).

(B) Completed at least six but less than 11 years of service as a credentialed teacher, the credit shall be five hundred dollars (\$500).

(C) Completed at least 11 but less than 20 years of service as a credentialed teacher, the credit shall be one thousand dollars (\$1,000).

(D) Completed 20 or more years of service as a credentialed teacher, the credit shall be one thousand five hundred dollars (\$1,500).

(E) For purposes of determining years of service, years of service performed as a teacher in a qualifying educational institution, that otherwise meets the criteria specified in paragraph (2) of subdivision (c) except that the qualifying educational institution is not located in this state, in another state shall qualify for each year the teacher was credentialed by the public education agency in that state.

(2) Fifty percent of the amount determined as follows:

(A) Divide the amount received by the taxpayer as wages and salary for services as a credentialed teacher, as defined in paragraph (3) of subdivision (c), by the taxpayer’s total adjusted gross income from all sources.

(B) Multiply the taxpayer’s total tax, as defined in paragraph (4) of subdivision (c), by a ratio, not to exceed 1.00, that is otherwise equal to the ratio determined for the taxpayer under subparagraph (A).

(c) For purposes of this section, all of the following definitions apply:

(1) “Credentialed teacher” means a person who holds a preliminary or professional clear credential as determined by the Commission on Teacher Credentialing pursuant to Article 1 (commencing with Section 44200) of Chapter 2 of Part 25 of Division 2 of Title 2 of the Education Code and who teaches at a qualifying educational institution.

(2) “Qualifying educational institution” means any elementary, secondary, or vocational-technical school located in this state providing education for kindergarten, grades 1 to 12, inclusive, or any part thereof. “Qualifying educational institution” includes an agency or instrumentality of the federal government providing education for kindergarten, grades 1 to 12, inclusive, or any part thereof, at any location within this state, including an Indian reservation or a military installation located within the geographical borders of this state, where a credentialed teacher is employed by the federal government or an agency or instrumentality thereof. “Qualifying educational institution” includes any elementary, secondary, or vocational-technical school located in California, that files an affidavit pursuant to Sections 33190 and 33191 of the Education Code,

and provides education for kindergarten and grades 1 to 12, inclusive, or any part thereof.

(3) “Wages and salaries for services as a credentialed teacher” includes only those amounts received with respect to services performed as a credentialed teacher, but does not include pensions or other deferred compensation.

(4) “Total tax” means the tax imposed under this part for the taxable year, before the application under Section 19007 of any payment of estimated tax or any installment thereof, less all credits allowed for the taxable year except for the following:

(A) The credit allowed under this section.

(B) The credit allowed under Section 17061 (relating to refunds under the Unemployment Insurance Code).

(C) The credit allowed under Section 19002 (relating to tax withholding).

(D) Any refundable credit that is allowed under this part.

SEC. 9. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to make necessary statutory changes to implement the Budget Act of 2006, it is necessary that this act go into immediate effect.